

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ALLSTATE INSURANCE CO.,

Plaintiff,

vs.

Case No. 11-10173
Hon. Lawrence P. Zatkoff

JESSICA KOWALCZYK,

Defendant.

OPINION AND ORDER

AT A SESSION of said Court, held in the
United States Courthouse, in the City of Port Huron,
State of Michigan, on the 29TH day of June, 2011

PRESENT: THE HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

On May 25, 2011, this Court issued an Order to Show Cause to Defendant Jessica Kowalczyk (hereinafter, "Defendant"), which stated in its entirety:

In this action, Defendant ..., proceeding in pro per, apparently prepared and filed an Answer to Plaintiff's Complaint on February 14, 2011. To date, no attorney has filed an appearance on behalf of Defendant. A clerk's entry of default has been entered against the other four defendants.

On April 20, 2011, the Court issued Plaintiff and Defendant a Notice to Appear for a Scheduling Conference. The Scheduling Conference was noticed for 10:00 a.m. on May 24, 2011, at the U.S. District Court in Port Huron, Michigan. On May 24, 2011, at 10:00 a.m., counsel for Plaintiff appeared for the designated Scheduling Conference at the U.S. District Court in Port Huron, Michigan. At no time on May 24, 2011, however, did Defendant or any attorney on her behalf appear at the U.S. District Court in Port Huron, Michigan. Moreover, the Court has not been contacted by Defendant or any attorney on her behalf as to why she did not appear at the Scheduling

Conference.

Therefore, the Court hereby ORDERS Defendant to SHOW CAUSE, in writing, on or before June 21, 2011, why the Court should not enter a default judgment in favor of Plaintiff and against Defendant. Defendant's response to the Order to Show Cause shall contain specific and accurate legal support, including pinpoint citations to authority relied upon, and shall be limited to ten pages and comply with E.D. Mich. L.R. 5.1.

In the event Defendant does not file a response to this Order to Show Cause on or before June 21, 2011, the Court will consider Defendant's failure to respond to have prejudiced Plaintiff's ability to prosecute this case, and the Court may enter a default judgment in favor of Plaintiff and against Defendant.

IT IS SO ORDERED.

The deadline for Defendant to respond to the Court's May 25, 2011, Order to Show Cause passed over one week ago, but Defendant has not filed a response.

Based on the foregoing, the Court finds that the Defendant has disregarded direct orders of the Court and demonstrated no intent to defend the instant cause of action. Specifically, the Court finds that Defendant failed to: (1) appear (or have someone appear on her behalf) at the Scheduling Conference, as directed by the Court, (2) contact the Court at any time before or after the Scheduling Conference regarding her failure to appear for the Scheduling Conference, and (3) respond to the Court's May 25, 2011, Order to Show Cause.

Accordingly, as the Court warned Defendant when issuing the May 25, 2011, Order to Show Cause, the Court hereby finds that Defendant is in default in this cause of action. Therefore, the Court now ORDERS that the Clerk of the Court enter a default against Defendant.

The Court FURTHER ORDERS that a Default Judgment Hearing regarding this cause of action shall be held on August 11, 2011, at 10:30 a.m. in Port Huron, with respect to all named

defendants. The Court FURTHER ORDERS that:

- (1) Plaintiff shall provide all named defendants with notice of the Default Judgment Hearing on or before July 11, 2011;
- (2) Plaintiff shall prepare a proposed "Judgment of Default" and provide all named defendants with a copy of that proposed "Judgment of Default" on or before July 11, 2011;
- (3) Notice of the August 11, 2011, Default Judgment Hearing and a copy of the proposed "Judgment of Default" shall be considered served upon a defendant at such time as a copy of this Opinion and Order and the proposed "Default Judgment" are sent to that defendant via U.S. Mail, addressed to that defendant at the address he or she was served a copy of the Complaint; and
- (4) On or before July 18, 2011, Plaintiff shall file with the Court the Certificate(s) of Service regarding the notice of Default Judgment Hearing and the proposed "Judgment of Default" sent to the named defendants.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF

UNITED STATES DISTRICT JUDGE

Dated: June 29, 2011

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on June 29, 2011.

s/Marie E. Verlinde

Case Manager

(810) 984-3290